

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 600 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DVIYABEN S MARWADI

Versus

STATE OF GUJARAT

Appearance:

MR KG VAKHARIA, Sr.Advocate,
Assisted by MR MK VAKHARIA for Petitioner
None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/09/97

ORAL JUDGMENT

1. Mr.D.P.Joshi, and Mrs. Siddhi Talati, AGPs are present in the Court. They were called upon to make submissions in this case on behalf of respondent-State, but they have shown their inability to make submissions on the ground that the papers of the matter have not been sent to them nor they have any instructions and above all nobody is present on behalf of respondents to instruct

them. It is really sorry state of affairs prevailing in this State where the Government, though being a biggest litigant in this Court, has not made adequate arrangements for its representations in the matters. The worst part of it is that nobody is present to even assist this Court or make oral submissions on the basis of whatever record available. A copy of this order be sent to the Chief Secretary, Government of Gujarat, Sachivalaya, Gandhinagar.

2. Heard learned counsel for the petitioner.

3. The petitioner has come up with her grievance before this Court regarding seniority in the cadre of class II and I services of the Social Defence Department. The learned counsel for the petitioner made a grievance that in the cadre of class II, the petitioner entered in services earlier to respondent No.3, namely Miss M.L.Doctor, but still the respondent No.3 has been given seniority over her in the seniority list annexure 'A' to this Special Civil Application. The petitioner has been selected for class II post in the month of May 1965 whereas the respondent No.3 has been selected for the said post in the year 1966 but still she has been given seniority above her. Her date of appointment has been shown to be 24th November 1972 in the seniority list which is apparently an incorrect statement. The learned counsel for the petitioner further contended that the petitioner has been selected for grade I of class II services earlier to respondent No.3.

4. The respondent-State has conveniently decided not to contest this Special Civil Application though a reply has been filed.

5. The learned counsel for the petitioner admits that after filing of this Special Civil Application, the petitioner has been given promotion to the next higher post and she has reached to the stage of Director of the Department and she has also retired, but in case her seniority is corrected, then she will get the deemed date of promotion which will result in notional benefits and ultimately she may be entitled for some arrears as well as higher rate of pension.

6. In view of these facts, now the only matter remains to be decided is of the claim of the petitioner for the deemed date of promotion. In the absence of reply of respondent-State and in view of the facts stated aforesaid, prima-facie it appears that the petitioner has made out a case for consideration by respondent-State.

The interest of justice will be served in case the respondent-State is directed to consider the matter afresh of the seniority of the petitioner in the cadre of class II as well as for further consequential benefits where her claim is accepted. The petitioner, if she so desire, may file a representation in this respect to the respondent-State within a period of one month from the date of receipt of certified copy of this order and in return, the respondent-State shall decide the same after hearing the petitioner, if she so desire, within a period of three months thereafter. In case the claim of the petitioner for seniority is accepted, then she will be entitled for all consequential benefits following therefrom which shall be given to her within two months thereafter. In case the claim of the petitioner is not accepted, the respondent-State shall pass a reasoned order and a copy of the same may be sent to the petitioner by registered post A.D. Liberty to the petitioner for revival of the Special Civil Application in case of difficulty.

7. The Special Civil Application and Rule stand disposed of accordingly with no order as to costs.

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(sunil)